



The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

Fairfield Homeowners Association  
c/o Joseph Terlikosky  
21 Fairfield Road  
Sandown, NH 03873

**ADMINISTRATIVE ORDER**  
**No. WD 04-021**

Re Fairfield Homeowners Association Water System  
Sandown, New Hampshire  
EPA #2082020

**OCTOBER 4, 2004**

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division, to the Fairfield Homeowners Association pursuant to RSA 485:4 and RSA 485:58. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire 03301.
2. The Fairfield Homeowners Association is an association of home owners having a mailing address of 21 Fairfield Road, Sandown, New Hampshire 03873. Joseph Terlikosky is the designated representative of the Fairfield Homeowners Association for the purpose of water supply issues.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485 authorizes DES to regulate public water supplies. RSA 485:3 authorizes DES to adopt drinking water rules which identify contaminants that may have an adverse effect on health, which establish maximum contaminant levels that are acceptable for human consumption, which establish criteria and procedures to assure compliance with such maximum contaminant levels, and which identify criteria and standards to ensure the proper operation and maintenance of water systems. Pursuant to this authority, DES has adopted NH Admin. Rules Env-Ws 300.
2. The Fairfield Homeowners Association is the owner of a water system known as Fairfield Homeowners Association water system which serves approximately 15 single family residences with an estimated population of 38 persons located on Fairfield Road in Sandown, New Hampshire ("Water System"). The Water System is a community water system as defined in RSA 485:1-a, I and Env-Ws 302.02(i).

## I. EMERGENCY PLAN

3. Env-Ws 360.14 requires the owner of a community water system to prepare an emergency plan that addresses emergency situations. A copy of the plan was required to be submitted to DES by March 15, 2003.
4. On or about March 21, 2002, DES sent the Water System a letter that explained the requirements of the emergency plan rule, noted the deadline of March 15, 2003, for submission of a copy of the emergency plan to DES, and indicated how to obtain assistance in preparing the emergency plan.
5. DES records indicate that the Water System did not submit a copy of its emergency plan to DES by the March 15, 2003, deadline.
6. On or about March 31, 2003, DES issued a second letter to the Water System which noted the failure of the system to submit an emergency plan to DES by the March 15, 2003, deadline and requested that the emergency plan be submitted by June 30, 2003.
7. DES has no record of the requested response to the March 31, 2003, letter.
8. On or about August 14, 2003, Letter of Deficiency #WSEB 03-223 ("LOD") was issued to the Water System. The LOD requested, *inter alia*, that the Water System submit a copy of its emergency plan to DES by August 28, 2003.
9. The LOD was received by the Water System as evidenced by a signed postal receipt.
10. On September 25, 2003, DES received an emergency plan from the Water System. The submitted emergency plan, however, did not meet the requirements of Env-Ws 360.14 because it addressed only one of the eleven topics required to be included in an emergency plan.
11. On May 3, 2004, DES sent an e-mail to the Water System explaining that the submitted emergency plan did not meet the requirements of Env-Ws 360.14. The e-mail requested that a complete emergency plan be submitted to DES by June 30, 2004.
12. As a follow-up to the May 3, 2004 e-mail, DES issued a letter entitled "Reminder – Response Past Due for Letter of Deficiency #WSEB 03-223" ("Reminder Letter") to the Water System on June 8, 2004. The Reminder Letter requested that the Water System submit a copy of its emergency plan to DES by June 30, 2004.
13. The Reminder Letter was received by the Water System as evidenced by a signed postal receipt.
14. On July 1, 2004, DES received an e-mail from the Water System that stated the emergency plan was not finished and requested an extension to the June 30, 2004, deadline. DES responded by e-mail and extended the deadline to submit the emergency plan to July 16, 2004. The Water System acknowledged the deadline extension by e-mail correspondence.
15. To date, the Water System has failed to submit to DES a copy of an emergency plan that

meets the requirements of Env-Ws 360.14.

## II. CONSUMER CONFIDENCE REPORT

16. Env-Ws 352 requires a community water system to prepare an annual Consumer Confidence Report ("CCR") that provides water quality information for the previous calendar year to consumers.
17. Env-Ws 352.03 requires a community system to deliver a copy of the CCR to each customer and to DES by July 1<sup>st</sup> of each year and to certify to DES by October 1<sup>st</sup> of each year that the CCR was delivered to customers of the water system.
18. The Water System complied with the CCR distribution and certification requirements for the years 1999 through 2003, inclusive.
19. On or about February 3, 2004, DES sent a letter to all community water systems reminding them of the CCR requirement, the July 1<sup>st</sup> CCR distribution deadline, and the October 1<sup>st</sup> CCR certification deadline.
20. To date, the Water System has not delivered a copy of its 2004 CCR to DES.

## D. DETERMINATION OF VIOLATIONS

1. The Water System has violated Env-Ws 360.14 by failing to submit to DES a complete emergency plan.
2. The Water System has violated Env-Ws 352.03 by failing to submit a 2004 CCR to DES by July 1, 2004.
3. As owner of the Water System, the Fairfield Homeowners Association is responsible for the violations noted herein.

## E. ORDER

Based on the above findings, DES hereby orders the Fairfield Homeowners Association as follows:

1. **Within 30 days of the date of this Order**, submit to DES a complete emergency plan for the Water System, which meets all requirements of Env-Ws 360.14.
2. **Within 30 days of the date of this Order**, prepare and deliver the 2004 CCR containing calendar year 2003 drinking water information to Water System customers and to DES in accordance with Env-Ws 352.
3. **Within 30 days of the date of this Order**, submit to DES the 2004 CCR certification.
4. Send correspondence, data, reports, and other submissions made in connection with this

Administrative Order, **other than appeals**, to DES as follows:

Alan Leach  
Water Supply Engineering Bureau  
Department of Environmental Services  
29 Hazen Drive, PO Box 95  
Concord, NH 03302-0095  
Telephone: (603) 271-2854  
Fax: (603) 271-5171  
e-mail: [aleach@des.state.nh.us](mailto:aleach@des.state.nh.us)


#### F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve the Fairfield Homeowners Association of the obligation to comply with the Order.

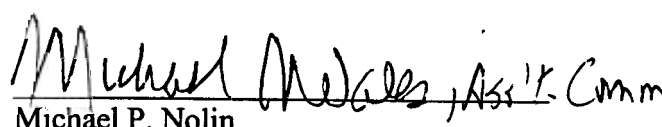
#### G. OTHER PROVISIONS

Please note that RSA 485:58 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. The Fairfield Homeowners Association remains obligated to comply with all applicable drinking water statutes and rules. DES will continue to monitor the Fairfield Homeowners Association's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded in the Rockingham County Registry of Deeds so as to run with the land.



Harry T. Stewart, P.E. Director  
Water Division



Michael P. Nolin  
Commissioner

Certified Mail/RRR: #7000 0600 0023 9933 8323

cc: Gretchen Hamel, DES Legal Unit Administrator  
Public Information Officer, DES PIP Office  
DES Water Division Director's Office  
Jennifer Patterson, Sr. Assistant Attorney General  
Rockingham County Registry of Deeds  
Board of Selectmen, Town of Sandown  
Town of Sandown Health Officer  
Joseph D'Aoust, Primary Contact/Operator  
US EPA, Region 1